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In re Application of :
Ainsworth et al. :
Application No. 09/143503 :
Filing or 371(c) Date: 08/28/1998 :
Title of Invention: :
INTRALUMINAL CATHETER WITH :
HIGH STRENGTH PROXIMAL SHAFT :

DECISION DISMISSING
PETITION UNDER
37 CFR 1.47(a)

This is in response to a "Declaration of George Wheeler 37 C.F.R. 1.47(a)," filed May 28, 1999. The Declaration is properly treated as a petition under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on August 28, 2008, without, a fully executed oath or declaration. Petitioner filed the present petition on May 28, 1999, along with an oath/declaration executed by two of three inventors. The signature block of the nonsigning inventor Tai C. Cheng has been executed by inventor Robert D. Ainsworth.

Applicable law, Rules and/or MPEP

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (2) and (3) set forth above.

As to item (2), the MPEP 409.03(a), At Least One Joint Inventor Available, provides in relevant part:

All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated. (Emphasis supplied).

In this instance, all of the available joint inventors have not made the oath/declaration on behalf of the nonsigning inventor. Here, only inventor Ainsworth has made the oath/declaration on behalf of the nonsigning inventor.

As to item (3), Applicant has failed to submit the petition fee. The petition fee for a petition under 37 CFR 1.47(a) is currently \$200.00.

The petition fee, and an oath or declaration signed by all the available joint inventors, with the signature block of the nonsigning inventor(s) left blank, are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions